IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Chamber Summons No. 537 of 2002
in
Execution Application No. 19 of 2002
in
Manipal Arbitration Petition No.14 of 20002

M/s Maharashtra Apex Corporation Ltd. ..Petitioners

vs.

1. M/s Bagwe Udyog Ltd. & Ors. ..Respondents

and

Mrs.Aruna Pradeep Satam ...Applicant

Mr.A.R.Bamne for petitioners.
Mr.S.A.Abhyankar for applicants.

CORAM: S.U.KAMDAR J.
24th January,2005

P.C.

1. The present chamber summons has been taken out by the applicant for raising attachment in respect of flat No.A/301, Rajesh Nagar, Saibaba Mandir Road, Borvivli (West), Mumbai 400 092.

2. The Execution Application No.19 of 2002 has been filed for recovery of the decreetal amount of about Rs.37,00,000/- from the respondent. Respondent no.3 is one of the Directors of respondent no.1 Company is also the judgment debtor and the applicant is the wife of respondent no.3.

3. In support of the present applicant the applicant relied upon the agreement dated 2nd January, 1984 executed by and between M/s Bagwe builders and the applicant for purchase of the saide flat which is under attachment. The consideration agreed under the said agreement is Rs.1,10,000/- The applicant also relied upon the receipt of registering authority dated 4th January, 1984 indicating that the said agreement was lodged for registration as on that date. The applicant has also relied upon the share certificate dated 24th March, 1997 issued by Rajesh Nagar, A building Cooperative Housing Society as well as maintenance receipt of 2001 indicating that both the documents are in favour of the applicant herein.

5. Over and above the aforesaid documents, the applicant has produced the letter dated 6th February, 1997 issued by Unit Trust of India certifying that the applicant was in service of Unit Trust of India between 17th April, 1978 and 31st May, 1997. The applicant has also produced a certificate dated 4th April, 1994 issued by the Unit Trust of India indicating that for acquisition of the flat housing loan was obtained by the applicant for a sum of Rs.65,000 and as on 1st

April, 1991 to 31st March, 1991 there was outstanding amount of Rs.2,376.95 payable by the applicant to the Unit Trust of India. The plaintiffs decree holder has inter alia contended in para5 of the affidavit that so far as the aforesaid documents are concerned though the applicant is not having any independent source of income. I am of the opinion that the applicant is the owner in respect of the said flat. The applicant being not the judgment debtor the property of the applicant cannot be attached and sold in execution. In view thereof the chamber summons is made absolute interms of prayers (a) and (b).